

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**ROGER HAVENS**

**PLAINTIFF**

**v.**

**No. 3:19CV225-RP**

**TALLAHATCHIE COUNTY SHERIFF'S DEPT.  
SHERIFF WILLIAM L. BREWER  
DEPUTY SHERIFF TIMOTHY COLE  
DEPUTY SHERIFF BENJI MCKINNEY  
MELINDA MORGAN (SHERIFF'S FRIEND)  
STEVE SIMMONS  
PETE GRIFFEN**

**DEFENDANTS**

**JUDGMENT**

In accordance with the memorandum opinion entered this day:

- (1) Defendant Steve Simmons is **DISMISSED** with prejudice from this case, as the plaintiff intends him to be a witness, rather than a defendant;
- (2) The plaintiff's claims regarding defamation are **DISMISSED** with prejudice because defamation is not a valid claim under 42 U.S.C. § 1983;
- (3) The Tallahatchie County Sheriff's Department and Sheriff William Brewer are **DISMISSED** with prejudice from this case, as they were included only via county or supervisor liability;
- (4) The plaintiff's claim regarding the taking of his property without due process of law is **DISMISSED** with prejudice from this case, as he has an adequate remedy under state law for that claim;
- (5) The plaintiff's allegations against Deputy Sheriff Benji McKinney for losing his prescriptions and doctor's orders sound wholly in negligence, as do his allegations against Melinda Morgan for ripping off his bandages and otherwise providing sub-par medical care. These claims are **DISMISSED** with prejudice because negligence is not a valid claim under 42 U.S.C. § 1983;

- (6) The plaintiff's claims against Deputy Sheriff Timothy Cole regarding failure to protect him from injury (being thrown from a moving vehicle) and for retaliation (causing his ejection from the vehicle because the plaintiff notified authorities of illegal activities in the Tallahatchie County Jail) will **PROCEED**;
- (7) The plaintiff's claims against Deputy Sheriff Pete Griffen for use of excessive force and retaliation (roughing the plaintiff up prior to his transport to CMCF and allowing others to do so) will also **PROCEED**;
- (8) The plaintiff's claim that he received no medical care of any kind for two weeks after his release from the hospital to the Tallahatchie County Jail will likewise **PROCEED**.

**SO ORDERED**, this, the 28th day of May, 2020.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE